

NOTE

March 26, 2004

{Date}

Lansing

{City}

Mi.

{State}

2376 Wieman Road, Beaverton, Michigan 48612

{Property Address}

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$ 16,500.00 (this amount is called "principal"), plus interest, to the order of the Lender. The Lender is

Howard LaDuke, Jr.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of principal has been paid. I will pay interest at a yearly rate of 7.00 %.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) of this Note.

3. PAYMENTS**(A) Time and Place of Payments**

I will pay principal and interest by making payments every month.

I will make my monthly payments on the 1st day of each month beginning on May 1, 2004

I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. My monthly payments will be applied to interest before principal. If, on April 1, 2014

I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "maturity date."

I will make my monthly payments at ,

or at a different place if required by the Note Holder.

(B) Amount of Monthly Payments

My monthly payment will be in the amount of U.S. \$ 191.58

4. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of principal at any time before they are due. A payment of principal only is known as a "prepayment." When I make a prepayment, I will tell the Note Holder in writing that I am doing so.

I may make a full prepayment or partial prepayments without paying any prepayment charge. The Note Holder will use all of my prepayments to reduce the amount of principal that I own under this Note. If I make a partial prepayment, there will be no changes in the due date or in the amount of my monthly payment unless the Note Holder agrees in writing to those changes.

5. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (i) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (ii) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the principal I owe under this Note or by making a direct payment to me. If a refund reduces principal, the reduction will be treated as a partial prepayment.

6. BORROWER'S FAILURE TO PAY AS REQUIRED**(A) Late Charge for Overdue Payments**

If the Note Holder has not received the full amount of any monthly payment by the end of Fifteen calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.00% of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

(B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

EXHIBIT

A

(C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is delivered or mailed to me.

(D) No Waiver By Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

7. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

8. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

9. WAIVERS

I and any other person who has obligations under this Note waive the rights of presentment and notice of dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

10. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

Transfer of the Property or a Beneficial Interest in Borrower. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.


Andrea Nicole Matkovic (Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

[Sign Original Only]

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MORTGAGE

THIS MORTGAGE ("Security Instrument") is given on March 26, 2004.
The mortgagor is Andrea Nicole Matkovic, an unmarried woman

1604 Biltmore Blvd

whose address is

310 AM
Lansing, Michigan, 48906
("Borrower"). This Security Instrument is given to

Howard LaDuke, Jr., an unmarried man

and whose address is 2376 Wieman Road, Beaverton, MI 48612

("Lender"). Borrower owes Lender the principal sum of

Sixteen Thousand Five Hundred Dollars and Zero Cents
Dollars (U.S. \$ 16,500.00). This debt is evidenced by Borrower's
note dated the same date as this Security Instrument ("Note"), which provides for monthly payments, with the full debt,
if not paid earlier, due and payable on April 1, 2014 . This Security
Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals,
extensions and modifications of the Note; (b) the payment of all other sums, with interest, advanced under paragraph
7 to protect the security of this Security Instrument; and (c) the performance of Borrower's covenants and agreements
under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, warrant, grant and
convey to Lender with the power of sale, the following described property located in

Gladwin

County, Michigan:

Lots 422 and 423, Whitney Beach No. 8, Hay Township, Gladwin County, Michigan, as
recorded in Liber B of Plats, Page 30, Gladwin County Records.

which has the address of 2376 Wieman Road, Beaverton,
Michigan 48612 ("Property Address");

Amended 5/91
Form 3200 12/83

EXHIBIT

MULTISTATE FIXED RATE NOTE-SINGLE FAMILY-FINANCE INSTRUMENT

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

(B) Default

of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment. calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.00%

If the Note Holder has not received the full amount of any monthly payment by the end of **Fifteen**

(A) Late Charge for Overdue Payments

6. BORROWER'S FAILURE TO PAY AS REQUIRED

prepayment. under this Note or by making a direct payment to me. If a refund reduce principal, the reduction will be treated as a partial loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (i) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (ii) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the principal I owe. If a loan, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (i) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (ii) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the principal I owe.

5. LOAN CHARGES

changes in the due date or in the amount of my monthly payment unless the Note Holder agrees in writing to those changes. of my prepayments to reduce the amount of principal that I own under this Note. If I make a partial prepayment, there will be no a "prepayment." When I make a prepayment, I will tell the Note Holder in writing that I am doing so.

I have the right to make payments of principal at any time before they are due. A payment of principal only is known as

4. BORROWER'S RIGHT TO PREPAY

My monthly payment will be in the amount of U.S. \$ 191.58

(B) Amount of Monthly Payments

or at a different place if required by the Note Holder.

I will make my monthly payments at , I will owe amounts under this Note. I will pay those amounts in full on that date, which is called the "maturity date." I may owe under this Note. My monthly payments will be applied to interest before principal. If, on April 1, 2014 I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I will make my monthly payments on the 1st day of each month beginning on May 1, 2004

(A) Time and Place of Payments

3. PAYMENTS

of this Note. The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) rate of 7.00 %.

Interest will be charged on unpaid principal until the full amount of principal has been paid. I will pay interest at a yearly

2. INTEREST

under this Note is called the "Note Holder." but the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments I understand

Howard Laduke, Jr.

"principal"), plus interest, to the order of the Lender. The Lender is In return for a loan that I have received, I promise to pay U.S. \$ 16,500.00 (this amount is called

1. BORROWER'S PROMISE TO PAY

[Property Address]

2376 Wieman Road, Beaverton, Michigan 48612

Lansing, [City]

[State] M.

March 26, 2004 [Date]

NOTE

Form 320B 1/2/83

[Sign (original only)]

 (Seal)
 -Borrower

 (Seal)
 -Borrower

 (Seal)
 -Borrower

 (Seal)
 -Borrower

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

Transfer of the Property or a Beneficial Interest in Borrower. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by Federal law as of the date of this Security Instrument.

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the provisions given to the Note Holder under this Note, a Mortgage, Deed of Trust or Security Instrument, dated the same date as this Note, provides the Note Holder with powers which might result if I do not keep the promises which I make in this Note. This Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

10. UNIFORM SECURED NOTE
 To require the Note Holder to give notice to other persons that amounts due have not been paid.
 "Presentation" means the right to require the Note Holder to demand payment of amounts due. "Notice of dishonor" means the right I and any other person who has obligations under this Note waive the rights of presentation and notice of dishonor.

9. WAIVERS

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

8. OBLIGATIONS OF PERSONS UNDER THIS NOTE

Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.
 Any notice that must be given to the Note Holder under this Note will be given by mailing it by first class mail to the Note Holder at my different address.

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

7. GIVING OF NOTICES

Expenses include, for example, reasonable attorneys' fees.
 he paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. These expenses include, for example, reasonable attorneys' fees.
 If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to

(B) Payment of Note Holder's Costs and Expenses

the Note Holder will still have the right to do so if I am in default at a later time.
 Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above,

(C) No Waiver by Note Holder

If I am in default, the Note Holder may send me a written notice telling me that I am not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is delivered or mailed to me.

(C) Notice of Default

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MICHIGAN - Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

Michigan 48612 ("Property Address");
which has the address of 2376 Wieman Road, Beaverton,

recorded in Liber 8 of Plats, page 30, Gladwin County Records.
Gladwin
lots 422 and 423, Whitney Beach No. 8, May Township, Gladwin County, Michigan, as
County, Michigan;
convey to Lender with the power of sale, the following described property located in
under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, warrant, grant and
7 to protect the security of this Security Instrument; and (c) the performance of Borrower's covenants and agreements
extensions and modifications of the Note; (b) the payment of all other sums, with interest, advanced under paragraph
Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals,
if not paid earlier, due and payable on April 1, 2014
note dated the same date as this Security Instrument ("Note"), which provides for monthly payments, with the full debt,
Sixteen Thousand Five Hundred Dollars and Zero Cents 16,500.00 Dollars (U.S. \$). This debt is evidenced by Borrower's
and whose address is 2376 Wieman Road, Beaverton, MI 48612 ("Lender"). Borrower owes Lender the principal sum of

Howard Labuke, Jr., an unmarried man
1604 Biltmore Blvd Lansing, Michigan 48906 ("Borrower"). This Security Instrument is given to
The mortgage is Andrea Nicole Markovic, an unmarried woman
THIS MORTGAGE ("Security Instrument") is given on March 26, 2004.

MORTGAGE

Space Above This Line For Recording Data

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TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property". BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property. **UNIFORM COVENANTS.** Borrower and Lender covenant and agree as follows:

1. **Payment of Principal and Interest; Prepayment and Late Charges.** Borrower shall promptly pay when due the principal of and interest on the debt evidenced by the Note and any prepayment and late charges due under the Note to Lender on the day monthly payments are due under the Note, until the Note is paid in full, a sum ("Funds") for (a) yearly taxes and assessments which may attach prior to the Note, until the Note is paid in full, a sum ("Funds") for (b) yearly leasehold payments or ground rents on the Property, if any; (c) yearly hazard or property insurance premiums; (d) yearly flood insurance premiums, if any; (e) yearly mortgage insurance premiums, if any; and (f) any sums payable by Borrower to Lender, in accordance with the provisions of paragraph 8, in lieu of the payment of mortgage insurance premiums. These items are called "Escrow Items." Lender may, at any time, collect and hold Funds in an amount not to exceed the maximum amount a lender for a federally related mortgage loan may require for Borrower's escrow account under the Federal Real Estate Settlement Procedures Act of 1974 as amended from time to time, 12 U.S.C. Section 2601 et seq. ("RESPA"), unless another law that applies to the Funds sets a lesser amount. If so, Lender may, at any time, collect and hold Funds in an amount not to exceed the lesser amount. Lender may estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with applicable law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentally, or jointly (including Lender, if Lender is such an institution) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items. Lender may not charge Borrower for holding and applying the Funds, unilaterally analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. However, Lender may require Borrower to pay a one-time charge for an independent real estate tax reporting service used by Lender in connection with this loan, unless applicable law provides otherwise. Unless an agreement is made or applicable law requires interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender may agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds, showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for all sums secured by this Security Instrument.

If the Funds held by Lender exceed the amounts permitted to be held by applicable law, Lender shall account to Borrower for the excess Funds in accordance with the requirements of applicable law. If the amount of the Funds held by Lender at any time is not sufficient to pay the Escrow Items when due, Lender may so notify Borrower in writing, and, in such case Borrower shall pay to Lender the amount necessary to make up the deficiency. Borrower shall make up the deficiency in no more than twelve monthly payments, at Lender's sole discretion.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender. If, under paragraph 21, Lender shall acquire or sell the Property, Lender, prior to the acquisition or sale of the Property, shall apply any Funds held by Lender at the time of acquisition or sale as a credit against the sums secured by this Security Instrument.

3. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under paragraphs 1 and 2 shall be applied: first, to any prepayment charges due under the Note; second, to amounts payable under paragraph 2; third, to interest due; fourth, to principal due; and last, to any late charges due under the Note. 4. **Charges; Lien.** Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attach prior to the payment of this Security Instrument, and leasehold payments or ground rents, if any. Borrower shall pay these obligations in the manner provided in paragraph 2, or if not paid in that manner, Borrower shall pay them on time directly to the person owed payment. If Borrower makes these payments directly, Borrower shall promptly furnish to Lender receipts evidencing the payments.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which may attach prior to this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

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5. Hazard or Property Insurance. Borrower shall keep the improvements existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards including floods or flooding, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's approval which shall not be unreasonably withheld. If Borrower fails to maintain coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property in accordance with paragraph 7.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause. Lender shall have the right to hold the policies and renewals. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to Lender and Borrower shall agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of the payments. If under paragraph 21 the Property is acquired by Lender, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of the sums secured by the Security Instrument immediately prior to the acquisition.

6. Occupancy, Preservation, Maintenance and Protection of the Property, Borrower's Loan Application, Leaseliens. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within sixty days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property. Borrower shall be in default if any tortious action or proceeding, whether civil or criminal, is begun that in Lender's good faith judgment could result in forfeiture of the Property or otherwise materially impair the fee in Lender's good faith judgment or Lender's security interest. Borrower may cure such a default and continue, as provided in paragraph 18, by causing the action or proceeding to be dismissed with a ruling that, in Lender's good faith determination, precludes forfeiture of the Borrower's security interest. Borrower shall also be in default if Borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning Borrower's occupancy of the Property as a principal residence. If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

7. Protection of Lender's Rights in the Property. If Borrower fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien which has priority over this Security Instrument, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although Lender may take action under this paragraph 7, Lender does not have to do so.

Any amounts disbursed by Lender under this paragraph 7 shall become additional debt of Borrower secured by this Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

8. Mortgage Insurance. If Lender required mortgage insurance as a condition of making the loan secured by this Security Instrument, Borrower shall pay the premiums required by Lender lapses or ceases to be in effect, Borrower shall pay any reason, the mortgage insurance coverage required by Lender lapses or ceases to be in effect, at the premiums required to obtain coverage substantially equivalent to the mortgage insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the mortgage insurance previously in effect, from an insurance mortgage insurer approved by Lender. It substantially equivalent mortgage insurance coverage is not available, Borrower shall pay to Lender each month a sum equal to one-twelfth of the yearly mortgage insurance premium being paid by Borrower when the insurance coverage lapsed or ceased to be in effect. Lender will accept use and return these payments as a loss reserve in lieu of mortgage insurance. Loss reserve payments may no longer be required, at

the option of Lender, if mortgage insurance coverage (in the amount and for the period that Lender requires) provided by an insurer approved by Lender, becomes available and is obtained. Borrower shall pay the premiums required to maintain mortgage insurance in effect, or to provide a loss reserve, until the requirement for mortgage insurance ends in accordance with any written agreement between Borrower and Lender or applicable law.

9. **Inspection.** Lender or its agent may make reasonable entries upon and inspections of the Property. Lender shall give Borrower notice at the time of or prior to an inspection specifying reasonable cause for the inspection.

10. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the taking, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Borrower. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is less than the amount of the sums secured immediately before the taking, unless Borrower and Lender otherwise agree in writing or unless applicable law otherwise provides, the proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the proceeds, in its option, either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of such payments.

11. **Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

12. **Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 17. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Borrower's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without that Borrower's consent.

13. **Loan Charges.** If the loan secured by this Security Instrument is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limits; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

14. **Notices.** Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any other address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

15. **Governing Law; Severability.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. In the event that any provision of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

Form 3023, 8/90
Page 5 of 5 pages

16. Borrower's Copy. Borrower shall be given one conformed copy of the Note and of this Security Instrument. 17. Transfer of the Property or a Beneficial Interest in Borrower. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

18. Borrower's Right to Reinstate. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earlier of: (i) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Security Instrument; or (b) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as Lender may reasonably require to assure that the lien of this Security Instrument, Lender's right in the Property and Borrower's obligation to pay the sums secured by this Security Instrument shall continue unchanged. Upon reinstatement by Borrower, this Security Instrument and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under paragraph 17.

19. Sale of Note; Change of Loan Servicer. The Note or a partial interest in the Note (together with this Security Instrument) may be sold one or more times without prior notice to Borrower. A sale may result in a change in the entity (known as the "Loan Servicer") that collects monthly payments due under the Note and this Security Instrument. There also may be one or more changes of the Loan Servicer with paragraph 14 above and the address to which the Loan Servicer will be given written notice of the change in accordance with paragraph 14 above and applicable law. The notice will state the name and address of the new Loan Servicer and the address to which payments would be made. The notice will also contain any other information required by applicable law.

20. Hazardous Substances. Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage of the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this paragraph 20, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph 20, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

21. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under paragraph 17 unless applicable law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; and (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceedings and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender, at its option, may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 21, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

This instrument was prepared by

Karin Camille Bulger
Notary Public, Eaton County, MI
My Comm. Expires May 29, 2004

(Seal)

Karin Camille Bulger
Eaton
County, Michigan
Notary Public

My Commission expires: May 29, 2004

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.
free act and deed.

did examine and read the same and did sign the foregoing instrument, and that the same is
, the individual(s) who executed the foregoing instrument and acknowledged that

On this 25th day of March, 2004, before me, a Notary Public in and for
said County and State, personally appeared
Andrea Nicole Mackovic

Eaton
County

STATE OF MICHIGAN

-----[Space Below This Line For Acknowledgment]-----

-Borrower
(Seal)

-Borrower
(Seal)

-Borrower
(Seal)

Andrea Nicole Mackovic
-Borrower
(Seal)

Witnesses:

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security
Instrument and in any rider(s) executed by Borrower and recorded with it.

22. Release. Upon payment of all sums secured by this Security Instrument, Lender shall prepare and file a
discharge of this Security Instrument without charge to Borrower.
23. Riders to this Security Instrument. If one or more riders are executed by Borrower and recorded together
with this Security Instrument, the covenants and agreements of each such rider shall be incorporated into and shall
amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this
Security Instrument. [Check applicable box(es)]
- | | | |
|--|---|---|
| <input type="checkbox"/> Adjustable Rate Rider | <input type="checkbox"/> Condominium Rider | <input type="checkbox"/> 1-4 Family Rider |
| <input type="checkbox"/> Graduated Payment Rider | <input type="checkbox"/> Planned Unit Development Rider | <input type="checkbox"/> Biweekly Payment Rider |
| <input type="checkbox"/> Balloon Rider | <input type="checkbox"/> Rate Improvement Rider | <input type="checkbox"/> Second Home Rider |
| <input type="checkbox"/> V.A. Rider | <input type="checkbox"/> Other(s) [specify] | |
- If Lender invokes the power of sale, Lender shall give notice of sale to "Borrower in the manner provided in
paragraph 14. Lender shall publish and post the notice of sale, and the Property shall be sold in the manner prescribed
by applicable law. Lender or its designee may purchase the Property at any sale. The proceeds of the sale shall be
applied in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable attorneys' fees;
(b) to all sums secured by this Security Instrument and (c) any excess to the person or persons legally entitled to it.

EXHIBIT

U.S. Bankruptcy Judge

Dated

12-31-04

IT IS HEREBY ORDERED that the Automatic Stay as to the Movant, Mortgage Electronic Registration Systems, Inc., as nominee for Lender and Lender's successors and assigns, is hereby lifted. This Order is effective immediately upon entry by this Court notwithstanding the provision of FRBP 4001(a)(3). This Order shall be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Bankruptcy Code.

of the Respondent, and the Court being fully advised in the premises:

be treated as an unsecured debt; and the Court being in receipt of the Motion and Certificate to applicable state law and procedures; and any deficiency on the sale of this property shall filing this Motion; and any surplus on the sale of this property shall be distributed pursuant \$92,375.52, which includes but is not limited to \$700.00 for the Attorney fees and costs for of the property is \$110,000.00; and the current debt owing to Movant is approximately located at 2376 Whisman Rd, Beaverton, MI 48612-9454; and the approximate market value filed a Motion For Relief From The Automatic Stay with respect to the real property Lender's successors and assigns, by and through its attorneys, Troit & Troit, P.C., having Movant, Mortgage Electronic Registration Systems, Inc., as nominee for Lender and

ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY AND WAIVING THE PROVISION OF FRBP 4001(a)(3)

Hon. James D. Gregg

Debtor.

Andrea N Markovic

In re:

Chapter 7 No. 04-13723

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TROIT & TROIT, P.C.
30400 TROIT RD
SUN 200
BROOKLYN PARK, MI
48025-5922
PHONE 248-642-2515
FACSIMILE 248-642-3628

EXHIBIT

Exh. 6:1 "A"

Mark H. Canaday
Foster Swift Collins & Smith
Attorneys for Markovic & Guerrero
313 South Washington Square
Lansing, MI 48203-2103
Telephone: (313) 371-8100

ALAN D. WALTON (P31786)
UAW Legal Services Plan
Attorneys for Defendant/Counter-Plaintiff
4139 Wilder Road
Bay City, Michigan 49706
Telephone: (989) 684-3300

Defendants

ANTHONY GUERRERO,
Individually, d/b/a PREMIERE
PROPERTY INVESTMENTS; and
ANDREA MATKOVIC, and
MORTGAGE HOTLINE, INC, d/b/a
AMERICAN MORTGAGE
DECISIONS, and FIRST MAGNUS
FINANCIAL CORPORATION,
d/b/a CHARTER FUNDING, and
BNC MORTGAGE, INC, and
MERSCORP, INC, d/b/a MERS
MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, and
TROTTE & TROTTE, PC, and
KENMORE INVESTMENTS, INC.,
d/b/a MICHIGAN TITLE
COMPANY, and BRADLEY
KLINE, Individually, d/b/a
PREMIERE PROPERTY
INVESTMENTS, and
THOMAS A. REINHOLD,
Individually and d/b/a REINHOLD
AND ASSOCIATES, INC, d/b/a
RESIDENTIAL APPRAISAL
SERVICES.

LAURA E. FLACH
GLADWIN COUNTY CLERK

FEB 24 2005

A TRUE COPY

HONORABLE KURT N. HANSEN

CASE NUMBER: 05-1905-CH

Plaintiff

HOWARD T. LADUKE, JR.

STATE OF MICHIGAN
IN THE 55TH CIRCUIT COURT

AMID until approximately March 15, 2004.
 mortgages in Gladwin County. Matkovic was an employee and agent of
 Michigan, including arranging the lending of money secured by real property
 Lansing, Michigan 48917, and is doing business in Gladwin County,
 whose resident agent is Rick Badawi, 428 South Cross Road, Suite A.
 DECISIONS (hereafter referred to as "AMID") is a Michigan Corporation,
 3. MORTGAGE HOLDING, INC. d/b/a AMERICAN MORTGAGE

Counterclaim to this court.
 District Court, and stipulating to the Transfer of LaDuke's
 LaDuke (hereafter referred to as "LaDuke") in the Gladwin County
 filing the a summary proceeding action against Defendant Howard
 voluntarily subjected themselves to the jurisdiction of this court by
 and ANDREA MATKOVIC (hereafter referred to as "Matkovic")
 2. Defendants TONY GUERRERO (hereafter referred to as "Guerrero")

LaDuke, Michigan
 Lots 422 and 423, Whitney Beach No. 8, Hay Township,
 situated in Gladwin County, Michigan more fully described as follows:
 1. The subject matter of this action (hereafter referred to as "premises") is

JURISDICTION

attends his Amended Complaint in this matter, as follows:
 Howard J. LaDuke, Jr., and by his attorneys, UAW Legal Services Plan, hereby

VERIFIED SECOND AMENDED COMPLAINT

debt collection and conducting mortgage foreclosure sales by advertisement.

48025, doing business in Gladwin County, Michigan, including third party

A. Troll, 30400 Telegraph Road - Ste 200, Bingham Farms, Michigan

Michigan professional service corporation whose registered agent is David

7. Defendant TROLL & TROLL, PC, (hereinafter referred to as "Troll") is a

proceedings against the premises.

mortgages in Gladwin County, Michigan, and including foreclosure

acting as the nominee of lenders of money secured by real property

registered agent, doing business in Gladwin County, Michigan, including

INC. (hereafter referred to as "MBS") is a foreign corporation, with no

6. Defendant MORTGAGE ELECTRONIC REGISTRATION SYSTEMS,

property mortgages in Gladwin County, Michigan.

Gladwin County, Michigan, including the lending of money secured by real

601 Abbot Road, East Lansing, Michigan 48823, and is doing business in

corporation, whose resident agent is CSC - Lawyers Incorporating Service,

5. Defendant BNC MORTGAGE (hereafter referred to as "BNC") is a foreign

agent of Charter between March 1, 2004 and April 6, 2004.

mortgages in Gladwin County, Michigan. Guerrero was an employee and

Michigan, including arranging the lending of money secured by real property

Bingham Farms, Michigan 48025, and is doing business in Gladwin County.

whose resident agent is The Corporation Company, 30600 Telegraph Road,

corporation, d/b/a Charter Funding (hereafter referred to as "Charter"),

4. Defendant FIRST MAGNUS FINANCIAL CORPORATION is a foreign

1994.

12. LaDuke suffers from a bi-polar disorder and has been under medical care and on extended disability from his employment because of this condition since tenants in 2003 and commenced living together at that address. commonly know as 1604 Bellevue Boulevard, Lansing, Michigan as joint 11. Upon information and belief, Guerrero and Markovic acquired real property

FACTUAL ALLEGATIONS

10. Defendant KENMORE INVESTMENTS, INC., d/b/a RESIDENTIAL APPRAISAL SERVICES is a dissolved Michigan Corporation and Thomas A. Reinbold, its last known principal, individually (hereafter collectively referred to as "Reinbold"), does business in Gladwin County, Michigan, including appraising properties proposed to be secured by real property mortgages in Gladwin County, Michigan. 9. Defendant BRADLEY KILMER, (hereafter referred to as "Kilmer"), 911 Larned, Lansing, Michigan 48912 is an individual doing business with Guerrero as Premier Property Investments, a purported Michigan Co- Partnership. 8. Defendant KENMORE INVESTMENTS, INC. (hereafter referred to as "Kenmore") is a Michigan Corporation, d/b/a Michigan Title Company, whose resident agent is James Gawron, 429 Wendover, Muskegon, Michigan 49441 and is doing business in Gladwin County, Michigan, including insuring title to lenders of money secured by real property mortgages in Gladwin County, Michigan.

13. In early 2004, LaDuke contacted AMD for the purpose of obtaining a home equity loan of approximately \$13,000, dealing primarily with AMD agent Markovic. At the time he owed approximately \$49,000 on a first mortgage and twice the State Equalized Value of his home was \$94,714.
14. Prior to March 3, 2004, Markovic requested, and LaDuke provided, personal financial information, and details regarding his disabling mental health problems, including lapses in short term memory and an inability to handle his financial affairs.
15. Upon information and belief, Markovic provided LaDuke's financial and mental health information to Guerrero.
16. Upon information and belief, prior to March 3, 2004, Markovic and Guerrero commenced a scheme to defraud LaDuke of his home and BNC of its funds.
17. On or about March 3, 2004, effective at 7:00 a.m., Kenmore issued the commitment number 04-50133. Said commitment proposed to provide an owner's title policy to Markovic for a purchase price of \$110,000 and a mortgage policy in favor of BNC in the amount of \$88,000.
18. Upon information and belief, on or about March 3, 2004, AMD determined that it would deny LaDuke's mortgage application.
19. Upon information and belief, Markovic did not advise LaDuke of the denial until several weeks later.
20. Approximately 20 minutes after Markovic finally advised LaDuke of the denial, Guerrero contacted LaDuke and indicated he would assist LaDuke in obtaining home equity financing for his home.

A. Price \$110,000;

The terms of said agreement were as follows:

Quintero prepared said agreement and presented it to the parties for signing.

agreed to sell the premises to Matkovic. Upon information and belief,

purchase agreement bearing a date of March 23, 2004, in which LaDuke

27. On or after March 23, 2004, Matkovic and LaDuke allegedly entered into a

and occupancy of the premises.

to insure the premises effective March 23, 2004, with Matkovic as the owner

insurance quote from Farm Bureau General Insurance Company of Michigan

26. On or before March 23, 2004, Quintero and/or Matkovic requested an

the commitment 04-30133.

25. On or about March 15, 2004, Kennore issued a statement to Charter for its

on March 9, 2004.

LaDuke's lender, Homecomings Financial, which provided same to Charter

24. On or before March 9, 2004, Charter requested a payoff statement from

the premises, which was completed on or about March 11, 2004.

23. On or about March 8, 2004, Quintero ordered an appraisal from Reinhold for

Matkovic, had denied.

Charter would provide the mortgage financing that AMLD, through its agent

between March 3, 2004, and March 31, 2004, and led LaDuke to believe that

22. Quintero, as an agent of Charter, initiated contact with LaDuke some time

LaDuke that Matkovic proposed to purchase his home.

21. At no time on or before March 31, 2004, did Matkovic or Quintero advise

34. On March 31, 2004, Kuznetsov conducted a closing of the transaction.
- services from Premiere Property or its agents.
- Premiere Property or its partners for any services, nor did he receive any
33. LaDuke had no knowledge of said invoice, and had no agreement with
- amount of \$28,000.
- invoice to Kenmore charging LaDuke for Property Management in the
32. On March 30, 2004, Guerrero and Kline submitted a Premiere Property
31. On March 30, 2004, BNC issued a mortgage commitment to Malkovic.
- money mortgage of the premises in the amount of \$16,500.
- to be prepared a mortgage and note from Malkovic to LaDuke for a purchase
30. On or before March 26, 2004, Guerrero and/or Malkovic prepared, or caused
- Malkovic.
- Lending Disclosure Statement on behalf of Charter for presentation to
29. On March 24, 2004, Guerrero generated a Good Faith Estimate and Truth in
- mortgage.
28. Guerrero misled LaDuke as to the nature of the purchase agreement, leading
- LaDuke to believe it was a document necessary to the processing of his
- F. Earnest money deposit \$0.
- E. \$250 escrow as security for possession by April 13, 2004;
- D. Closing on or about April 1, 2004;
- C. Seller financing \$16,500;
- B. New Loan \$88,000; Mortgage commitment by March 31, 2004;

35. At the closing, Markovic signed the following documents, all of which indicate her intention to occupy the premises as her primary residence after closing:
- A. Estoppel Certificate;
 - B. W-9 (Request for Taxpayer ID Number);
 - C. Occupancy Affidavit.
36. One or more of the above documents by their terms were signed to induce BNC to make the loan.
37. At the closing Markovic signed a Uniform Residential Loan Application prepared by Quorum indicating the following:
- A. She had resided at 1604 Riffmore for 2 years;
 - B. She was employed as president of Markovic Cleaning Services;
 - C. Her income was \$4,500 per month;
 - D. She had three listed assets for a total value of \$43,000;
 - E. She had seven listed liabilities totaling \$41,960.
38. At the closing Markovic signed the note and mortgage referenced in paragraph 30 above, with the date altered by hand to March 31, 2004.
39. At the closing Markovic signed a mortgage on the premises and note in favor of BNC in the amount of \$22,000, with monthly payments of \$602.90.
40. At the closing Markovic and LeDuke signed various other standard closing documents.
41. Pursuant to the alleged purchase agreement LeDuke was to receive a mortgage note from Markovic in the amount of \$16,500, with monthly

SENT BY: UAWLSP;

0000040505;

FEB-24-05 10:01;

PAGE 11.

payments to LaDuke in the amount of \$191.58; and approximately \$38,500 cash.

42. At the closing Kenmore acted as LaDuke's closing agent and retained a fee of \$250 from LaDuke which was the only settlement or closing fee charged to any of the parties.

43. At the closing Kenmore disbursed \$8,836.08 to LaDuke.

44. At the closing Kenmore disbursed \$28,000 to the Cuervo and Kline partnership Premiere Properties.

45. At the closing, Kenmore did not retain the occupancy escrow of \$250.

46. After the closing, Kenmore did not record the Matkovic/LaDuke mortgage securing the \$16,500 note.

47. Upon information and belief, Kenmore returned the original \$16,500 note to Matkovic.

48. On or about April 6, 2004, Cuervo entered into a "Residential Lease With Option to Purchase" with LaDuke.

49. The two year lease required monthly payments of \$850.07 with a 5% credit toward a purchase price of \$90,000.

50. In part because the payment on said lease was nearly twice his previous mortgage payment, LaDuke was unable to remain current.

51. Matkovic failed to make payments on the underlying mortgage.

52. On or about September 23, 2004, Matkovic and Cuervo initiated the summary proceeding action which resulted in the transfer of this action to this court.

58. Despite her stated intention to reside in the home, Matkovic had no actual intention to do so. Nor did she intend to purchase the premises as a business or investment property. She anticipated that LaDuke would make payments sufficient to cover the BNC mortgage loan, and that LaDuke would obtain other financing within two years.

59. Matkovic and Quintero, being aware of LaDuke's poor financial condition, conspired to liquidate and retain LaDuke's equity in the premises, resulting in a gross discrepancy between the benefit received by LaDuke for his home and its true value which Reinbold appraised at \$110,000.00.

COUNT I EQUITABLE MORTGAGE

following.

57. Each paragraph above is realleged and incorporated into each count amount due of \$91,536.94.

56. Trott has advertised a foreclosure sale date of February 25, 2005, claiming an January 4, 2005.

55. MERS, through its attorneys, Trott, sought and obtained from the bankruptcy court, the entry of an order granting relief from stay as to the premises on Chase Mortgage, an entity not appearing in the chain of title.

54. As part of the bankruptcy, Matkovic filed a Statement of Intention that she would surrender the premises to the secured party, which she identified as MERS, through its attorneys, Trott, sought and obtained from the bankruptcy court, the entry of an order granting relief from stay as to the premises on January 4, 2005.

53. On or about November 8, 2004, Matkovic filed a chapter 7 bankruptcy action in the Western District of Michigan.

63. LaDuke and Defendants BNC and MERS were victims of Matkovic's and Guerrero's fraudulent scheme.
64. Defendants BNC and MERS claim to hold a mortgage on the premises by virtue of a mortgage document executed by Matkovic on March 31, 2004, and recorded at Liber 719, Page 802, Gladwin County Records.
65. The interest in the premises claimed by BNC, MERS and Trost is limited to that which Matkovic held on said date.
66. Matkovic's interest in the property on March 31, 2004, was limited to that of an equitable mortgage securing the \$59,905.81 paid to or on behalf of LaDuke.
67. The amount demanded by BNC, MERS and Trost is \$91,536.94 and is based on a mortgage amount of \$88,000.00.

COUNT II QUIET TITLE

60. The warranty deed executed by LaDuke on March 31, 2004 was intended to serve as a security for the \$59,905.81 received from Matkovic; to wit: the payoff of LaDuke's underlying mortgage balance of \$51,069.73, and a cash payment of \$8,836.08 received at closing.
61. By virtue of the foregoing, the warranty deed executed by LaDuke to Matkovic was in fact a mortgage to secure the funds paid to LaDuke or on his behalf.
62. That in order to obtain funds, Matkovic and Guerrero, individually and as agent for Charter, committed fraud by misrepresenting various aspects of the transaction.

68. LaDuke is entitled to credit for payments made to Matkovic or on her behalf, which are not properly reflected in the amount claimed by BNC, MERS and Trull.
69. LaDuke is entitled to a partial release of all claims in excess of the outstanding balance of the equitable mortgage.
- COUNT III**
TRUTH IN LENDING/USURY
70. The proposed transaction between LaDuke and AMD, and later Charter and BNC; and the resultant equitable mortgage between LaDuke and Matkovic constituted a consumer credit transaction within the meaning of the Truth in Lending Act, 15 U.S.C. §1601 et seq.
71. Upon information and belief, AMD, Charter, BNC and Matkovic failed to provide required disclosures to LaDuke.
72. The Annual Percentage Rate in excess of 34% was not disclosed to LaDuke.
73. The legal limit for private real property loans in Michigan is 11% and the penalty for loans in excess of that amount is that the lender is barred from collecting any interest on the loan.
74. Upon information and belief, AMD did not properly process LaDuke's loan application.
75. Upon information and belief, AMD unreasonably denied LaDuke's home equity loan application.
76. As a result of said denial, LaDuke suffered damages, including the loss of the premises and any equity he may have had in it.

86. Reinhold had a duty to provide an accurate valuation of the property.
85. LaDuke suffered damages as a result of Kennore's breach of its duty to receive.
84. Kennore mishandled funds and documents that LaDuke was entitled to transact.
83. As the closing agent for the transaction, Kennore was obligated to LaDuke to properly administer the funds and documents generated from the transaction.
82. LaDuke suffered damages as a result of the improper release of confidential matters.
81. The information obtained allowed Markovic and Guerrero to further their scheme to defraud LaDuke.
80. AMID, through its agent Markovic, allowed confidential personal and LaDuke's privacy rights.
- agent Guerrero without LaDuke's knowledge or permission, in violation of financial information regarding LaDuke to be released to Charter and its
80. AMID, through its agent Markovic, allowed confidential personal and

BREACH OF FIDUCIARY DUTY/NEGLIGENCE COUNT IV

- of the premises and any equity he may have had in it.
79. As a result of Charter's actions, LaDuke suffered damages, including the loss of the premises and any equity he may have had in it.
78. Charter, through its agent Guerrero, initiated a new mortgage application for the purchase of the premises from LaDuke without his knowledge, authorization or agreement.
77. Charter, through its agent Guerrero obtained confidential information about LaDuke without his knowledge or authorization.

appraisal on the property in the amount of \$110,000.

96. Shortly after receiving the results of the title search Guentoro ordered an

Matkovic as purchaser and proposed borrower.

Guentoro, as an agent of Charter, initiated a title search on behalf of

95. Prior to the time that Matkovic denied the loan application through AMLD,

mental disability and to deprive LaDuke of the equity in his home.

94. Matkovic and Guentoro initiated a scheme to take advantage of LaDuke's

COUNT VI FRAUD

93. They are not entitled to retain the fraudulently obtained funds.

furtherance of their fraudulent scheme to obtain money.

92. The invoice and partnership documents were presented at closing in

91. There was no consideration for the \$28,000 paid to them at closing.

management or any other services to LaDuke.

90. Neither Guentoro nor Kline nor their partnership provided property

COUNT V UNJUST ENRICHMENT

89. LaDuke suffered damages as a result of Reinhold's breach of his duty.

obtain excess funds.

88. Reinhold overvalued the property, which allowed Matkovic and Guentoro to

approximately \$95,000 in March of 2004.

87. Upon information and belief, the property had a market value of

Malukovic and Guerrero.

104. AMLB and Charter are liable for the fraudulent acts of their agents

\$25,000 and the loss of record title ownership of his home.

refused thereon. LaDuke has suffered both monetary damages in excess of

103. As a result of Malukovic's and Guerrero's representation, and LaDuke's
relied upon Malukovic's and Guerrero's representations when he signed them.

102. LaDuke did not comprehend the nature of the documents he signed and

were for this purpose.

to obtain a home equity loan, and that the documents he signed at the closing

well as those made on March 31, 2004, that the loan closing he attended was

101. LaDuke relied on the above representations of Malukovic and Guerrero, as

to steal most of LaDuke's equity.

having already initiated the process for Malukovic to purchase the home and

100. At the time he made the above representation, Guerrero knew it was false.

Charter.

would arrange home equity financing in the amount of \$13,500 through

99. Guerrero then contacted LaDuke and falsely represented to LaDuke that he

home.

already ordered title insurance with herself as the purchaser of LaDuke's

98. At the time she made this representation, she knew it was false, having

financing through his employer, Charter.

boyfriend Guerrero, would be able to provide LaDuke's home equity

97. When Malukovic denied the loan application, she falsely represented that her

- the following relief:
- A. Provide injunctive relief during the pendency of this action postponing the foreclosure sale of the premises until such time as the various rights of the parties can be determined.
- B. Declare that the transaction between Markovic and LaDuke constitutes an equitable mortgage.
- C. Determine fair and reasonable terms for the repayment of the equitable mortgage and limit the holder of said equitable mortgage to the collection of principal only.
- D. Declare the March 31, 2004, deed from LaDuke to Markovic and purchase money mortgage from Markovic to LaDuke to be void ab initio.
105. Once the foreclosure sale scheduled by Troit on February 25, 2005, occurs, LaDuke will be unable to restate the equitable mortgage, and cannot afford to redeem the property by paying the entire amount demanded.
106. The terms of the equitable mortgage need to be determined by the court so the parties can set correct figures for reinstatement or redemption.
107. LaDuke will suffer irreparable harm if his right to restate is eliminated by the sale before the amount necessary, if any, to do so is determined by the court.
- WHEREFORE, the Plaintiff prays for the entry of a judgment granting LaDuke

COUNT VII
INJUNCTIVE RELIEF

- E. Declare that LaDuke is the owner of the premises in fee simple absolute.
- F. Determine the proper successor to the equitable mortgage, if any.
- G. Award damages against Guerrero and Kline in the amount of \$28,000 in favor of LaDuke, or in the alternative in favor of the equitable mortgage, or her successor, as the equities demand.
- H. Award exemplary damages to LaDuke against Guerrero and Charter and such other defendants whose actions are determined to constitute intentional fraud.
- I. Award damages to LaDuke against all defendants jointly and severally, equal to the amount of actual money damages he is found to have suffered as a result of the circumstances set forth above.
- J. Award damages to LaDuke against all defendants jointly and severally, for statutory costs, attorney fees and other indirect damages he is found to have suffered as a result of the circumstances set forth above.
- K. Award such other and further relief as the proofs may show, together with an order for costs and attorney's fees, plus such other and further remedy as justice and equity demand.

KELLY J. WEISHUHN -
Notary Public, Gladwin Co., MI
My Commission Exp. Oct. 2, 2005

Notary Public, Gladwin County, Michigan
My Commission Expires:
Acting in the County of Gladwin

[Signature]
Subscribed and sworn to before me this 24th day of February, 2003.

[Signature]
HOWARD J. LAPOKKE, JR.

Dated: *2/24/05*

I declare that the statements above are true to the best of my information, knowledge and belief.

ALAN B. WALTON (P31786)
UAW Legal Services Plan
4139 Wilder Road
Bay City, Michigan 48706
Telephone: (989) 684-3300

[Signature]

Dated: February 24, 2003

Respectfully Submitted,

A jury trial is demanded on all issues so triable.

JURY DEMAND

EXHIBIT

U.S. Bankruptcy Judge

Dated

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MICHIGAN

IN RE: ANDREA N. MATKOVIC,
Debtor

Case No. 04-13723
Chapter 7
Judge JoAnn C. Stevenson

HOWARD LADUKE, JR.,
Plaintiff

Vs.

ANDREA N. MATKOVIC,
Defendant

ORDER GRANTING RELIEF FROM THE AUTOMATIC
STAY and WAIVING THE PROVISION OF FRBP 4001(a)(3)

Howard Laduke, Jr., by and through his Attorneys, UAW-GM LEGAL SERVICES
PLAN, having filed a Motion for Relief from the Automatic Stay with respect to the real
property located at 2376 Wieman Rd., Beaverton, MI 48612-9454; and his claims
against the Debtor in a state court action filed in State of Michigan, 53rd Circuit Court,
Case No. 05-1905-CH; and the Court being in receipt of the Motion and Certificate of No
Response, and the Court being fully advised in the premises;

IT IS HEREBY ORDERED that the Automatic Stay as to the Movant, Howard
Laduke, Jr. is hereby lifted. This Order is effective immediately upon entry by this Court
notwithstanding the provision of FRBP 4001(a)(3). This Order shall be binding and
effective despite any conversion of this bankruptcy case to a case under any other chapter
of Title 11 of the United States Bankruptcy Code.